

**GERRY & SAPRONOV LLP**

ATTORNEYS AT LAW

SUITE 1455

THREE RAVINIA DRIVE

ATLANTA, GEORGIA 30346

(770) 399-9100

FACSIMILE (770) 395-0505

EMAIL: info@gstelecomlaw.com

**FILED**

**JUL 02 2004**

June 25, 2004

**Missouri Public  
Service Commission**

Mr. Dale Hardy Roberts, Secretary  
Missouri Public Service Commission  
200 Madison St.  
Jefferson City, MO 65101

Re: MO PSC v. AGL Networks, LLC; Case No. TC-2004-0314

Dear Mr. Roberts:

Please find enclosed for filing in the captioned case an original and nine (9) copies of the AGL Networks, LLC Verified Petition for Rehearing Or In The Alternative For Extension Of Time To File Annual Report. Also enclosed is a self-addressed, stamped envelope for returning one file-stamped copy to me for my file.

Thank you and please contact me with any questions or concerns.

Sincerely,



BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

JUL 02 2004

Missouri Public  
Service Commission

The Staff of the Missouri Public Service  
Commission, )

Complainant, )

v. )

AGL Networks, LLC, )

Respondent. )

Case No. TC-2004-0314

**VERIFIED PETITION FOR REHEARING  
OR IN THE ALTERNATIVE  
FOR EXTENSION OF TIME TO FILE ANNUAL REPORT**

**COMES NOW** AGL Networks, LLC (AGL), by its attorneys, and for its Verified  
Petition For Rehearing Or In The Alternative For Extension Of Time To File Annual  
Report (Petition) respectfully states and avers to the Commission as follows.<sup>1</sup>

**VERIFIED PETITION FOR REHEARING**

**I. Factual Background**

**A. The Staff's Complaint**

1. On January 29, 2004, the Staff of the Missouri Public Service Commission  
(Commission) filed a Complaint against AGL, alleging that the company is subject to  
penalties under the law for failing to file its annual report for 2002 by April 15, 2003, as  
provided in Section 392.210.1, RSMo 2000.

2. The Commission Staff's Complaint asserted that AGL is a  
"telecommunications company," subject to the jurisdiction of the Commission (p. 1), and

---

<sup>1</sup> See supporting Affidavit of Robert Schnorr, AGL's Director of Commercial Transactions, attached hereto  
as Exhibit "A" and incorporated herein by reference.

that AGL is required to file its annual report by April 15 of each year for the immediately preceding calendar year (p. 2).

3. Finally, Commission Staff asserted that as of the date its Complaint was filed (January 29, 2004), AGL had not yet filed an annual report for calendar year 2002, and that, therefore, AGL should be subjected to the \$100 per day penalty called for in such situations by Section 392.210.1 (pp. 3-4).

B. AGL's Verified Answer

4. On March 4, 2004, AGL filed its Verified Answer, admitting that, in states other than Missouri, it conducts business as a "telecommunications company" as defined in Section 386.020, RSMo 2000, but expressly denying, under oath,<sup>2</sup> that it had ever conducted such business within the State of Missouri (p. 1).

5. AGL also admitted that it had received a certificate of service authority as an interexchange carrier for the State of Missouri, on October 11, 2002, but stated under oath that it never has actually provided any telecommunications services within Missouri (p. 2).

6. AGL further stated, under oath, that the only telecommunications-related activities AGL had been involved with in the State of Missouri were limited to entering into a lease of some dark fibers and subsequently subleasing all of those same dark fibers to a national banking company for that company's use in any way it deemed fit and without any further involvement by AGL of any kind whatsoever (pp. 1-2).

7. AGL further averred that at no time did it furnish "lit" fiber, enabling electronics, or any other form of "telecommunications service" whatsoever, as that term

---

<sup>2</sup> The entirety of AGL's Verified Answer was supported by the signed, notarized Affidavit of Mr. Robert Schnorr, AGL's Director of Commercial Transactions.

is defined in Missouri statutes (referring to Section 386.020 (53), RSMo 2000) (*Id.*).

Rather, AGL merely leased some unactivated, dark fibers from one party and then immediately turned around and leased the same, still unactivated dark fibers, to a different third party in Missouri.

C. Staff's Response to AGL's Verified Answer

8. In the Staff's Response to Verified Answer, Staff stated that after having had the opportunity to review the statements made in paragraph 1 of AGL's Verified Answer, Staff did not dispute their veracity (i.e., Staff acknowledged that they had come to the view that AGL had not been engaged in any telecommunications carrier activities in Missouri) (p. 1). AGL now asserts, under oath, that this change in Staff's position from the time it filed its Complaint in this case was due to a lengthy conference call involving AGL representatives, staff counsel and staff technical personnel, which took place after Staff filed its Complaint and prior to AGL filing its Verified Answer, during which conversation Commission staff asked numerous specific questions of qualified AGL personnel.

9. An important fact shared by AGL with Staff during their conference call is that AGL never filed a Missouri tariff, and thus by its own terms AGL's certificate of service authority expired one year after its effective date, on October 11, 2003. In its Response, Staff essentially went on to state that other information provided by AGL to Staff during the above referenced conference call (e.g., the absence of any AGL Missouri tariff) "further supports" the finding that AGL "is not a telecommunications company" within Missouri (*id.*).

10. Therefore, in its Response to Verified Answer, Staff recommended that “the Commission find the certificate of service authority granted to AGL Networks, LLC in Case No. XA-2003-0060 is null and void, [and that the Commission] close this case and not direct or authorize the General Counsel’s Office to bring a penalty action against the Company in the circuit court” (p. 2).

## **II. The Commission’s Order**

11. On June 17, 2004, the Commission issued its Determination on the Pleadings and Order Directing General Counsel to Seek Penalties (Order), basing its conclusion on two separate but related findings: (A) that “AGL is a telecommunications company and is therefore subject to the annual report requirement” (Order, p. 4); and (B) that “AGL is certified by this Commission as an interexchange telecommunications carrier and that AGL has not filed its Annual Report for 2002 with the Commission” (*Id.*, p. 3). In support of its Order, the Commission quoted Section 392.210.1 thus: “Every telecommunications company shall file with the Commission an annual report at a time and covering the yearly period fixed by the Commission....”

## **III. Argument**

### **(A) The Nature of AGL’s Status as a “Telecommunications Company” is not the Type That Gives Rise to an Obligation to File an Annual Report in Missouri.**

12. Not all telecommunications companies conducting activities within the State of Missouri are subject to all Missouri PSC rules governing the various activities of such entities within this State. For example, a “telecommunications company” whose only activity within Missouri was strictly limited to selling customer premises equipment would not be subject to the State’s tariffing requirements since such equipment is detariffed in Missouri and, in fact, throughout the United States.

13. To determine which of the Commission's rules apply (and, more importantly here, which rules do not apply) to AGL due to its particular type of status as a "telecommunications company" operating within Missouri, one must look to specific provisions of Missouri statutes.

14. Section 392.180, RSMo 2000 provides: "The provisions of section 386.020, RSMo, defining words, phrases and terms, shall apply to and determine the meaning of all such words, phrases and terms as used in sections 392.190 to 392.530."

15. As asserted in Staff's Complaint and as explained in paragraph 1 above, the salient portion of the Missouri statutes in this case is Section 392.210.1 RSMo 2000, and thus the definitions contained within Section 386.020 apply when interpreting the provisions of Section 392.210.1

16. Section 386.020(51) defines "telecommunications company" as follows:

"Telecommunications Company" includes telephone corporations as that term is used in the statutes of this state and every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, *owning, operating, controlling or managing any facilities used to provide telecommunications service for hire, sale or resale within this state.* (Emphasis added)

17. As noted above, in its Verified Answer AGL has stated under oath that it has never owned, operated, controlled or managed any facilities used to provide telecommunications service for hire, sale or resale within the State of Missouri; standing alone, AGL's mere lease of unactivated dark fibers and then immediate sublease of same to a different third party – without more – is not reasonably viewed as owning, operating, controlling or managing the fibers, at least not within the meaning of such terms as

commonly used when referring to a telecommunications company's use of telecommunications facilities in furnishing telecommunications services to the public.

18. Nor were these fibers ever used for hire, sale or resale within Missouri by any party, to the best of AGL's knowledge, because the party to whom AGL subleased the fibers chose to use them for its own internal purposes in any event, and specifically did not plan to use them to provide any telecommunications service "for hire, sale or resale" (this assertion is also supported by the attached Affidavit of Robert Schnorr).

19. Thus, for purposes of determining whether AGL -- as a "telecommunications company" operating within Missouri -- was obligated to file an annual report with the Commission for calendar year 2002, one must look to the definition of that term within Section 386.020 (51) and consider the nature of AGL's telecommunications-related activities within the State during that year; doing so reveals that AGL in 2002 was not acting as a "telecommunications company" as that term is defined in Section 386.020 (51), and therefore that AGL was not obligated by Section 392.210.1 to file an annual report for that year.

(B) AGL's Status as a Missouri-Certificated Interexchange Telecommunications Carrier -- Standing Alone -- Is Insufficient to Bring AGL Under the Annual Report Filing Requirements in Missouri.

20. The Commission's Order states: " This Commission certified AGL as an interexchange telecommunications carrier and the Commission concludes that AGL is thus subject to this Commission's jurisdiction." (Order at p. 3) In the very next paragraph, the Order goes on to cite and quote the Section 392.210.1 Annual Report filing requirement and finds that AGL was in default for not having filed such a report for calendar year 2002. Reading these two adjacent provisions of the Order together, it

appears that the Commission based its finding that AGL should have filed a 2002 annual report at least in part upon the fact that the Commission had previously certified AGL as an interexchange telecommunications carrier within Missouri.

21. AGL does not deny that it was certificated as an interexchange telecommunications carrier by the Commission, on October 11, 2002, but for all the reasons stated in Argument Section (A) above, this basis for the Commission's decision also fails to take into account the clearly applicable definition of "telecommunications company" intended by the Legislature in applying the annual report filing requirement only to specific types of entities.

22. Moreover, although the term "interexchange telecommunications carrier" is not specifically defined within Section 386.020, the term "interexchange telecommunications company," often used interchangeably with the first term, is defined in that Section, as follows: "any company engaged in the provision of interexchange telecommunications service." Section 386.020 (23), RSMo 2000.

23. Likewise, the applicable section of the statute defines "interexchange telecommunications service" as "telecommunications service between points in different local access and transport areas." *Id.* at Section 386.020 (24).

24. From AGL's verified statements described and explained above it is evident that AGL did not, during 2002 or at any other time, "engage in the provision of . . . telecommunications service between points in different local access and transport areas" within the State of Missouri; to the contrary, all AGL did was to lease inoperative dark fibers from one party and then immediately sublease all of those dark fibers -- in completely unchanged form -- to some other party, with the latter party determining in its



sole discretion whether and, if so, how to utilize that fiber for the provision of any telecommunications service.

25. The fact that AGL had been granted a certificate of authority to operate as an interexchange telecommunications carrier within the State of Missouri – standing alone – is not sufficient to bring AGL under the very specific annual report filing requirements of Section 392.210.1, which provide that such requirements apply only to “telecommunications companies” as that term is expressly defined in Section 386.020 (51).

26. The uncontested facts herein show that the Section 386.020 (51) definition of “telecommunications companies” involves activities beyond those engaged in by AGL within the State of Missouri during the relevant period because AGL was not at any time “owning, operating, controlling or managing any facilities used to provide telecommunications service for hire, sale or resale within [the State of Missouri]”.

WHEREFORE, AGL respectfully requests that the Commission modify its Order to conclude that AGL was not obligated to file an annual report for 2002, and directing the General Counsel of the Missouri Public Service Commission not to bring any action against AGL in Circuit Court seeking collection of any penalties called for by Section 392.210.1, RSMo 2000.

**ALTERNATIVE REQUEST FOR EXTENSION OF TIME  
TO FILE ANNUAL REPORT**

In the alternative to its Verified Petition for Rehearing, and without prejudice to any arguments advanced therein, AGL respectfully requests an extension of time for the

filing of its 2002 Annual Report and as grounds for same, respectfully states and avers as follows.<sup>3</sup>

1. Despite the fact that AGL does not believe that it is legally required to file an Annual Report in the State of Missouri for calendar year 2002, in an abundance of caution and as a showing of good faith, AGL did in fact file such a report with the Missouri Commission as soon as possible after learning that the Staff's January 29, 2004, Complaint had been filed. This report was filed with the Commission on February 20, 2004.<sup>4</sup>

2. As explained and averred within AGL's Verified Answer, AGL was not operating as a carrier within Missouri in 2002, and did not receive a copy of the February 3, 2003, letter sent out by the Commission's Executive Director notifying all regulated Missouri utilities of the annual report requirement (perhaps because AGL was in the process of relocating its Atlanta offices at that time) (Verified Answer at pp. 1-2). Moreover, AGL was not familiar with the Commission's annual report filing procedures and was unaware of the Missouri annual report filing requirement until AGL received the Staff's Complaint in this case on February 6, 2004.

3. In AGL's haste to get a 2002 Annual Report filed as promptly as possible, AGL's Accounting Department completed and forwarded the report to the Commission without prior review by AGL's telecommunications counsel. Since that time, it has come to the attention of AGL's counsel that this report, as originally filed, contained an error. Specifically, the report erroneously states, at Item 7, that AGL realized Missouri-specific

---

<sup>3</sup> The assertions of this Alternative Request for Extension of Time to File Annual Report are also supported under oath by the attached Affidavit of Robert Schnorr, AGL's Director of Commercial Transactions, Exhibit "A".

<sup>4</sup> A true copy of this report, as originally filed, is attached hereto as Exhibit "B".

gross intrastate operating revenues from telecommunications services in the amount of \$87,821.00.


4. This originally reported sum in fact relates solely to the amount of lease payments that AGL received from the sublessee of the unactivated dark fibers that AGL subleased to a third party immediately after itself entering into a lease for those unactivated dark fibers during 2002. This sum in no way relates to any AGL activity that falls within the Missouri definition of the "provision of telecommunications services."

5. Accordingly, on June 28, 2004, AGL filed an Erratum to its February 20, 2004 Missouri Annual Report for 2002, correcting the sum for Item 7 to "zero." A true copy of that Erratum as filed is attached hereto and incorporated herein as Exhibit "C".

6. Section 392.210.1, RSMo 2000, provides that the subject Annual Report may be filed "within such extended time as the Commission may allow," and also states that the "Commission may, when it deems it advisable, exempt any telecommunications company from the necessity of filing annual reports until the further order of the Commission." *Id.*

WHEREFORE, in light of all the extenuating circumstances recited and supported under oath within this Verified Petition For Rehearing Or In The Alternative For Extension Of Time To File Annual Report, and within AGL's Verified Answer, and in light of Staff's support as indicated by the Staff's Response to Verified Answer, AGL respectfully requests, in the alternative, that, if the Commission denies or declines to act on AGL's Verified Petition for Rehearing, the Commission grant AGL an extension of time within which to file its 2002 Annual Report to February 20, 2004, with an Erratum permitted to be filed as of June 28, 2004.

Respectfully submitted,  
AGL Networks, LLC

By:   
Its Attorney

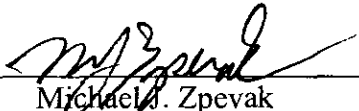
Michael J. Zpevak (Mo. Bar No. 25763)  
16265 Waterfront Way  
St. Louis, Missouri 63040  
Telephone: 636-458-4580  
Facsimile: 636-458-4509  
Email: [mjzpevak@gstelecomlaw.com](mailto:mjzpevak@gstelecomlaw.com)

and Of Counsel

Norman Gerry, Esq.  
Gerry & Sapronov, LLP  
3 Ravinia Drive, Suite 1455  
Atlanta, Georgia 30346  
Telephone: 770-399-9100  
Facsimile: 770-395-0505  
Email: [cgerry@gstelecomlaw.com](mailto:cgerry@gstelecomlaw.com)

### Certificate of Service

I hereby certify that true copies of the foregoing Verified Petition For Rehearing Or In The Alternative For Extension Of Time To File Annual Report, and the supporting Affidavit of Robert Schnorr, were mailed, first-class postage pre-paid, to the following individuals and addresses, this 25<sup>th</sup> day of June, 2004.

  
\_\_\_\_\_  
Michael J. Zpevak  
Attorney for AGL Networks, LLP

Copies to:

David A. Meyer  
Associate General Counsel  
Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

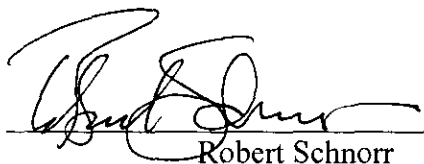
John Coffman, Esq.  
Office of the Public Counsel  
State of Missouri  
P.O. Box 7800  
Jefferson City, MO 65102

STATE OF TEXAS

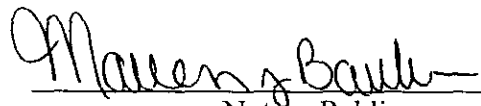
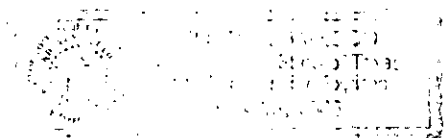
COUNTY OF HARRIS

## AFFIDAVIT

BEFORE ME, the undersigned Notary Public, on this 24<sup>th</sup> day of June, 2004, personally appeared Mr. Robert Schnorr, Director of Commercial Transactions of AGL Networks, LLC (AGL), known to be to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says that he has read the foregoing contents of AGL's Verified Petition for Rehearing or in the Alternative for Extension of Time to File Annual Report, Case No. TC-2004-0314, before the Missouri Public Service Commission as set forth above and, to the best of his knowledge, information and belief, attests to the truth and accuracy of the statements herein.

  
Robert Schnorr

Subscribed and sworn to before me, a Notary Public, this 24<sup>th</sup> day of June, 2004.

  
Notary Public

My commission expires: May 13, 2008

**AGL Networks, LLC**

---

(Full Company Name)

**INTEREXCHANGE TELECOMMUNICATIONS CARRIER**

**ANNUAL REPORT**

**TO THE**

**MISSOURI PUBLIC SERVICE COMMISSION**

**For Period Ending December 31, 2002**



1. State in full the exact 'certificated' name of the Interexchange Telecommunications Carrier:  
(Do not abbreviate; yet include any Commission approved fictitious name, if applicable.)

AGL Networks, LLC

2. Effective date of certification by the MO Public Service Commission and associated case number:

Date (e.g. 00/00/0000): 10/02/02 Case No: XA-2003-0060

3. Was the company certificated in Missouri under any other name(s)? If yes, please provide all names and time periods involved since the original certification:

N/A

4. State the name, title, street address, telephone number, fax number, and e-mail address\* of the individual completing/verifying this Annual Report:

Suzanne R. Thigpen, Corporate Counsel AGL Resources Inc.

Ten Peachtree Place, NW

Atlanta, Georgia 30030

(w) 404-584-3978 (f) 404-584-3978

sthigpen@aglresources.com

(\* ) To facilitate electronic sending of the Annual Report form next year.

5. State the name, title, street address, telephone number, fax number, and e-mail address of the company's regulatory contact person(s):

Cheryl Fricke

Contract Manager

1200 Smith Street Suite 900

Houston TX 77002

832-397-1765 cfricke@aglnetworks.com (ag)resources.com

6. Please provide a listing of all mergers, consolidations, and reorganizations, completed during the last year.

N/A



7. Please Provide the following information concerning Total Company and gross intrastate operating revenues (i.e., Missouri Specific) Revenues for the Calendar Year 2002

	<u>\$7,821.00</u>	Total Company	MO Specific
Operating Revenues* from Telecommunication Services		<u>\$1,951,293</u>	<u>\$87,821</u>
MO Specific should match Statement of Revenue (FY-2005 Mo.PSC Assessment)			

8. Type of Missouri tax return filed (i.e. MO-1065, MO-1120A, MO-1120S, MO-NRP, MO-NRS etc.):

MO-1120

9. Missouri Taxpayer ID: FedID 58-2567531

\* Missouri Revised Statutes §386.020(53)

(53) "Telecommunications service", the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

(a) The rent, sale, lease, or exchange for other value received of customer premises equipment except for customer premises equipment owned by a telephone company certificated or otherwise authorized to provide telephone service prior to September 28, 1987, and provided under tariff or in inventory on January 1, 1983, which must be detariffed no later than December 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and except for customer premises equipment owned or provided by a telecommunications company and used for answering 911 or emergency calls;

(b) Answering services and paging services;

(c) The offering of radio communication services and facilities when such services and facilities are provided under a license granted by the Federal Communications Commission under the commercial mobile radio services rules and regulations;

(d) Services provided by a hospital, hotel, motel, or other similar business whose principal service is the provision of temporary lodging through the owning or operating of message switching or billing equipment solely for the purpose of providing at a charge telecommunications services to its temporary patients or guests;

(e) Services provided by a private telecommunications system;

(f) Cable television service;

(g) The installation and maintenance of inside wire within a customer's premises;

(h) Electronic publishing services; or

(i) Services provided pursuant to a broadcast radio or television license issued by the Federal Communications Commission;

10. In an effort to update our Electronic Filing & Information system (EFIS) with current company contact and address information please provide the following information. Either verify the information through EFIS and initial in space provided or complete each sub-type and the Data Center Staff will update as required.

**a. Official Representative of the Company:**

*Information contained in EFIS is current:*

Initial

Name: Richard Fehi  
 Street/ PO Box: 1200 Smith Street  
 City, State, Zip: Houston TX 77002  
 Telephone number: 832-397-1735  
 Fax number: \_\_\_\_\_  
 E-mail address: feh1@aglnetworks.com @aglresources.com

**b. Consumer Services:**

*Information contained in EFIS is current:*

Initial

Name: Cheryl Fricke  
 Street/ PO Box: 1200 Smith Street  
 City, State, Zip: Houston TX 77002  
 Telephone number: 832-397-1765  
 Fax number: \_\_\_\_\_  
 E-mail address: cfricke@aglnetworks.com @aglresources.com

**c. Individual to receive statement of revenue (assessment):**

*Information contained in EFIS is current:*

Initial

Name: Steven Paulik  
 Street/ PO Box: \_\_\_\_\_  
 City, State, Zip: Atlanta, Georgia 30309  
 Telephone number: 404-384-4022  
 Fax number: \_\_\_\_\_  
 E-mail address (\*): spaulik@aglnetworks.com

(\*) To facilitate electronic sending of the statement of revenue next year.

In addition provide specific contacts for areas (d. through m.) if applicable on the following pages. In lieu of additional contacts being provided, designate if a, b, or c, above should be identified as the contact.

**d. Tariff:**

*Information contained in EFIS is current:*

Initial

Name: N/A  
 Street/ PO Box: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_  
 Fax number: \_\_\_\_\_  
 E-mail address: \_\_\_\_\_

10. continued

a. CFO/Comptroller:

Information contained in EPIS is current:

Name: N/A

Initials

Street/ PO Box: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

f. Technical:

Information contained in EPIS is current:

Name: N/A

Initials

Street/ PO Box: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

g. Surveillance:

Information contained in EPIS is current:

Name: N/A

Initials

Street/ PO Box: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

h. In-House Attorney:

Information contained in EPIS is current:

Name: Suzanne Thigpen

Initials

Street/ PO Box: Ten Peachtree Place

City, State, Zip: Atlanta Georgia 30309

Telephone number: 404-584-3978

Fax number: 404-584-3714

E-mail address: sthigpen@aglnetworks.com

i. Attorney:

Information contained in EPIS is current:

Name: N/A

Initials

Street/ PO Box: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

for the year ended December 31, 2002

## 10. continued

## j. Consultants:

Information contained in EFTS  
is current:

Name:	N/A	Initials
Street/ PO Box:		
City, State, Zip:		
Telephone number:		
Fax number:		
E-mail address:		

## k. Other:

Information contained in EFTS  
is current:

Name:	N/A	Initials
Street/ PO Box:		
City, State, Zip:		
Telephone number:		
Fax number:		
E-mail address:		

## l. Area Contact Entry:

Information contained in EFIS  
is current:

Name:	N/A	Initials
Street/ PO Box:		
City, State, Zip:		
Telephone number:		
Fax number:		
E-mail address:		

## m. Carrier Billing Relations:

Information contained in EFIS  
is current:

Name:	N/A	Initials
Street/ PO Box:		
City, State, Zip:		
Telephone number:		
Fax number:		
E-mail address:		

DIC Annual Report of AGL Networks, LLC

for the year ended December 31, 2002

### VERIFICATION

The foregoing report must be verified by the oath of the President, Treasurer, General Manager or Receiver of the company. The oath required may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

### OATH

State of Texas  
County of Harris } ss:

Richard P. Felt  
(Insert here the name of the officer) makes oath and says that

who is Executive Vice President and Chief Operating Officer  
(Insert here the official title of the officer)

of AGL Networks, LLC  
(Insert here the name legal title or name of the respondent)

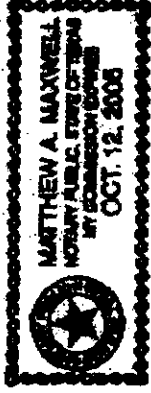
that s/he has examined the foregoing report; that to the best of his or her knowledge, information, and belief, all statements of fact contained in the said report are true and the said report is a correct statement of the business and affairs of the above-named respondent.

January 1, 2002, to and including December 31, 2002

Subscribed and sworn before me, a Notary Public in and for the

State and county above named, this 18th day of February, 2004

My Commission expires October 12, 2005



Matthew A. Maxwell  
(Signature of officer authorized to administer oaths)

Missouri Revised Statutes § 392.210

Original must be mailed to:  
Manager of the Data Center  
M&P&C, 200 Madison Street, Suite 100  
P.O. Box 160, Jefferson City, MO 65102-0160



Two Allen Center  
1200 Smith Street, Suite 900  
Houston, TX 77002

June 24, 2004

Dale Hardy Roberts  
Secretary Missouri Public Service Commission  
200 Madison St., Jefferson City, MO 65101

Re: Erratum to 2002 Annual Report of AGL Networks, LLC

Dear Sir:

Please find attached an Erratum to the 2002 Annual Report of AGL Networks, LLC, originally filed on February 20, 2004. Please include a copy of this transmittal letter and Erratum with copies of the original AGL 2002 Annual Report wherever they are maintained within Commission records or files.

This Erratum was necessitated because the Annual Report as originally filed did not receive legal review by AGL's telecommunications counsel prior to filing, and therefore contained an error due to client misunderstanding of applicable law. Specifically, Item 7 of the originally filed report mistakenly states that AGL during 2002 realized \$87,821 in Missouri-specific gross intrastate operating revenues from telecommunications services.

In fact, however, that sum was not generated from AGL's provision of any telecommunications services. Rather, it consisted of lessee payments to AGL for certain unactivated dark fibers that AGL merely subleased to a third party without enabling electronics or any other facilities or equipment that would have rendered them useable for provision of telecommunications services. Section 386.020 (53) defines "telecommunications service" as "the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means." AGL did not engage in any such activity associated with the erroneously reported sum of \$87,821 on AGL's 2002 Annual Report as originally filed.

Please contact me with any questions or concerns regarding this Erratum.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Schnorr", written over a horizontal line.

Bob Schnorr  
Director Commercial Transactions

CC: Suzanne Thigpen, AGL  
Chip Gerry, Gerry & Sapronov

**AGL NETWORKS, LLC**

---

(Full Company Name)

**ERRATUM TO  
INTEREXCHANGE TELECOMMUNICATIONS CARRIER  
ANNUAL REPORT  
TO THE  
MISSOURI PUBLIC SERVICE COMMISSION**

**For Period Ending December 31, 2002**

**(Dated June 24, 2004)**

7. Please provide the following information concerning Total Company and gross intrastate operating revenues (i.e., Missouri Specific) Revenues for the Calendar Year 2002

	<u>Total Company</u>	<u>MO Specific</u>
Operating Revenues* from Telecommunications Services	\$1,951,293**	\$ - 0 - *

\*Missouri Revised Statutes Section 386.020(53)

(53) "Telecommunications service", the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

(a) The rent, sale, lease, or exchange for other value received of customer premises equipment except for customer premises equipment owned by a telephone company certificated or otherwise authorized to provide telephone service prior to September 28, 1987, and provided under tariff or in inventory on January 1, 1983, which must be detariffed no later than December 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and except for customer premises equipment owned or provided by a telecommunications company and used for answering 911 or emergency calls;

(b) Answering services and paging services;

(c) The offering of radio communication services and facilities when such services and facilities are provided under a license granted by the Federal Communications Commission under the commercial mobile radio services rules and regulations;

(d) Services provided by a hospital, hotel, motel, or other similar business whose principal service is the provision of temporary lodging through the owning or operating of message switching or billing equipment solely for the purpose of providing at a charge telecommunications services to its temporary patients or guests;

(e) Services provided by a private telecommunications system;

(f) Cable television service;

(g) The installation and maintenance of inside wire within a customer's premises;

(h) Electronic publishing services; or

(i) Services provided pursuant to a broadcast radio or television license issued by the Federal Communications Commission.

\*\* Company's total gross operating revenues without regard to individual states' definitions of the term "telecommunications service."



Erratum to:  
IXC Annual Report of AGL Networks, LLC

for the year ended December 31, 2002

### VERIFICATION

The foregoing report must be verified by the oath of the President, Treasurer, General Manager or Receiver of the company. The oath required may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

### OATH

State of TEXAS }  
County of HARRIS } SS:

RICHARD FEHL makes oath and says that  
(Insert here the name of the affiant)

s/he is Exec. V.P. and COO  
(Insert here the official title of the affiant)

of AGL NETWORKS, LLC  
(Insert here the exact legal title or name of the respondent)

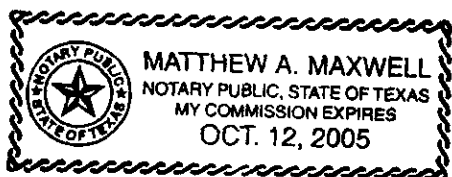
that s/he has executed the foregoing erratum to report; that to the best of his or her knowledge, information and belief, all statements of fact contained in the said erratum to report are true and the said erratum to report is a correct statement of the business and affairs of the above-named respondent.

January 1, 2002 to and including December 31, 2002

Richard Fehl  
(Signature of Affiant)

Subscribed and sworn to before me, a Notary Public, in and for the State and County above named, this 24<sup>th</sup> day of June, 2004.

My commission expires: October 12, 2005



Matthew A. Maxwell  
Notary Public